USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: ______
DATE FILED: 1/24/11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: WORLD TRADE CENTER DISASTER SITE LITIGATION | **MASTER DOCKET: 21 MC 100 (AKH)**

FRANK LANGAN,

PLAINTIFF,

-against-

A. RUSSO WRECKING, ET AL,

DEFENDANTS.

CIVIL ACTION NO: 06-CV-10042

NOTICE OF MOTION FOR A STAY OF 90 DAYS

PLEASE TAKE NOTICE that on a day to be determined by this Court, Worby Groner Edelman & Napoli Bern, LLP counsel for the plaintiff decedent Frank Langan, shall apply to the Honorable Alvin K. Hellerstein, U.S.D.J. at the Southern District of New York located at 500 Pear Street, New York, New York, Room 14-D for an Order seeking a 90 day stay pursuant to Federal Rule of Civil Procedure 25(a)(1).

PLEASE TAKE FURTHER NOTICE that Worby Groner Edelman & Napoli Bern, LLP counsel for the plaintiff decedent Frank Langan, shall move this Court for any additional appropriate relief in which this Court feels just and proper.

Dated: January 20, 2011

/s/ Christopher R. LoPalo
Christopher R. LoPalo (CL-6466)
Worby Groner Edelman & Napoli Bern LLP
350 Fifth Avenue, Suite 7413
New York, New York 10118
(212) 267-3700

The motion is denied w/out prejudice to renewal by Jan. 31, 2011. The motion must identify any heir or devisee who wishes to proceed with the case and explain why and how the case has proceeded this far through discovery w/out counsel having become aware of their client's death.

1/24/11
AKH

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: WORLD TRADE CENTER DISASTER SITE LITIGATION

MASTER DOCKET: 21 MC 100 (AKH)

FRANK LANGAN,

PLAINTIFF,

-against-

A. RUSSO WRECKING, ET AL,

DEFENDANTS.

CIVIL ACTION NO: 06-CV-10042

MEMORANDUM OF LAW AND FACTS IN SUPPORT

This motion is being filed pursuant to this Court's Order Regulating Decedents' Cases dated January 11, 2011 ("Order"). This case was identified in Table A of the Order. The Court directed in its Order that a motion for substitution be filed in this case by January 20, 2011 and the decision to settle, continue without settlement or dismiss must be ratified by the administrator or executor.

On or about May 16, 2005, Plaintiff filed a Summons with Notice in New York State Supreme Court. This action was subsequently removed to this Court and an individual check-off complaint was filed on or about October 16, 2006. This case is on the Eligible Plaintiff List pursuant to the World Trade Center Litigation Settlement Process Agreement, As Amended ("SPA").

Our office recently learned that our client, Plaintiff Frank Langan, passed away on June 17, 2005. We learned this information though a phone conversation with Plaintiff's ex-wife who referred us to Plaintiff's son. The Plaintiff's son has indicated to our office that he does not wish to accept the settlement or participate in the litigation. Upon information and belief there is no current legal representative for Plaintiff's Estate.

Concurrently with the filing of this motion our office is filing a suggestion of death pursuant to Federal Rule of Civil Procedure 25(a)(1). Pursuant to 25(a)(1), a substitution of a party representative for the deceased plaintiff has to occur within ninety days of the notice of death otherwise the case must be dismissed. Our office is currently unaware of anyone with standing who is willing to substituted in as the plaintiff in this matter. In order to give any potential interested person with standing an opportunity to come forward, be substituted in as the plaintiff in this matter and to be given the time to do so pursuant to Federal Rule of Civil Procedure 25(a)(1), our office respectfully requests that the Court refrain from considering dismissal of this case until April 20, 2011, which will be ninety days from the filing of the suggestion of death.

WHEREFORE, Worby Groner Edelman & Napoli Bern, LLP respectfully requests that the Court allow any interested party with standing until April 20, 2011 to be substituted in as Plaintiff before considering dismissing this case.

Dated: January 20, 2011

/s/ Christopher R. LoPalo______
Christopher R. LoPalo (CL-6466)
Worby Groner Edelman & Napoli Bern, LLP
350 Fifth Avenue, Suite 7413
New York, New York 10118
(212) 267-3700

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: WORLD TRADE CENTER DISASTER SITE LITIGATION	**MASTER DOCKET: 21 MC 100 (AKH)**
FRANK LANGAN, ***PLAINTIFF,*** **-against-** **A. RUSSO WRECKING, ET AL,** ***DEFENDANTS.***	**CIVIL ACTION NO: 06-CV-10042**

PROPOSED ORDER

A motion for substitution of the plaintiff must be made by April 20, 2010 pursuant to Federal Rule of Civil Procedure 25(a)(1). If such motion is filed, the proposed substituted plaintiff must state their desire to either settle, continue with litigation, or discontinue this lawsuit. Failure to effect such substitution by April 20, 2010 will be cause for dismissal of the action with prejudice.

SO ORDERED

Dated: ________/__________2011

____
ALVIN K. HELLERSTEIN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: WORLD TRADE CENTER DISASTER SITE LITIGATION	**MASTER DOCKET: 21 MC 100 (AKH)**
FRANK LANGAN, ***PLAINTIFF,*** **-against-** **A. RUSSO WRECKING, ET AL,** ***DEFENDANTS.***	**CIVIL ACTION NO: 06-CV-10042**

DECLARATION OF SERVICE

Christopher R. LoPalo, an attorney duly licensed to practice before the Courts of the State of New York, hereby declares that on January 20, 2011, I served the within **Motion for a Stay for 90 days** upon all counsel of record through the Court's Electronic Filing system.

January 20, 2010

/s/ Christopher R. LoPalo
Christopher R. LoPalo (CL-6466)
Worby Groner Edelman & Napoli Bern, LLP
350 Fifth Avenue, Suite 7413
New York, New York 10118
(212) 267-3700